

The AARP article shows that a number of groups have been trying to scare seniors into contributing to a phony cause.

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AARP ANSWERS 'SCARE CAMPAIGN' ON  
MEDICARE PRIVATE CONTRACTING

(By Elliot Carlson and Don McLeod)

Medicare beneficiaries are being flooded with misinformation about their right to enter into private contracts with their doctors.

As examples, observers cite reports in some newspapers and magazines stating that, because of the 1997 Balanced Budget Act (BBA), doctors will be barred from treating older patients on a private basis.

"What we have here," says AARP legislative director John Rother, "is a concerted scare campaign aimed at misleading Medicare beneficiaries into believing that they have lost the freedom to choose their own doctors and seek the care they need."

That's false, Rother says. Rather than weakening an enrollee's right to contract privately with doctors, he adds, the recently enacted BBA actually expands that right. Prior to passage of that law last fall, Medicare beneficiaries and doctors were not permitted to contract privately for services Medicare covered, such as office visits.

Any doctor treating a Medicare patient had to file a claim with Medicare and was limited in how much he or she could charge a beneficiary.

The BBA liberalizes these provisions. For the first time, effective Jan. 1, 1998, the law allows doctors to contract privately with Medicare enrollees for services that are already covered by Medicare.

But no sooner was the BBA enacted, Rother points out, than some groups started misinterpreting it—telling people incorrectly that the new law, rather than expanding enrollee rights, had taken them away.

One group, he notes, has been writing beneficiaries, quite erroneously, that if they pay a doctor out of their own pocket for a treatment not covered by Medicare, then their doctor will be barred from treating Medicare patients for two years.

Not so. Patients always could—and still can—privately buy services not covered by Medicare, such as prescription drugs, eyeglasses and hearing aids. "Beneficiaries have always been able to pay out of their own pocket for services not covered by Medicare without penalty to themselves or their physicians," says Nancy-Ann DeParle, administrator of the Health Care Financing Administration, which runs Medicare. "The new Balanced Budget Act doesn't change that."

And you always could—and still can—pay for extra medical tests you want without you or your doctor being penalized, even if your doctor disagrees about the need.

A case in point is mammograms. Under the law Medicare pays for one mammogram per year. If you have a history of breast cancer in your family and your doctor deems it advisable, Medicare will pay for a second test.

Even if you aren't a high-risk case for breast cancer but you simply want a second test, you can go ahead and pay for it on your own without penalty to you or your doctor.

But the 1997 BBA does change some things. As noted above, it allows doctors for the first time to contract privately with Medicare enrollees for services that are already covered by Medicare.

This change stems from a bill advanced last June by Sen. Jon Kyl, R-Ariz., who said the change was needed to allow "those 9 percent of the physicians who do not treat Medicare patients to continue to treat their patients [after patients turn 65] as they always have." In the waning hours of the de-

bate on this proposal, House-Senate conferees modified the Kyl provision and incorporated a number of enrollee protections.

A key protection requires doctors to disclose contract terms. Thus, the doctor and Medicare patient must both sign a contract in which the patient agrees not to file a claim with Medicare. The patient also agrees to pay 100 percent of whatever amount the doctor charges. The contract must disclose that Medicare will pay no portion of the cost of the service. Nor will the enrollee's medigap policy.

Also, the new provision is limited to doctors who agree, in an affidavit, to forgo all payment from Medicare for two years—a clause that has turned out to be controversial. Critics argue that the "two-year ban" makes it very hard for doctors to take advantage of the Kyl provision. And, they add, it could discourage doctors from taking new Medicare patients.

Such concerns don't stand up to close examination, says Tricia Smith, coordinator of AARP's legislative health team. "There is good reason for the two-year exclusion." For starters, "the provision is a real protection for Medicare patients," she says. "It's intended to prevent doctors from picking and choosing patients based on income and severity of illness."

"Also," Smith adds, "it seeks to protect Medicare against fraud."

In the wake of the controversy over private contracting, Senator Kyl is advocating a new bill that would go well beyond the intent of his original proposal. Not only is he seeking to eliminate the two-year ban, but he also wants to allow doctors to contract privately with low-income patients and those in managed care. And he wants to let doctors pick and choose what services they will contract for.

The legislation is supported by the American Medical Association (AMA), which has opposed Medicare's limits on balance billing—the extra amount doctors can charge beneficiaries over and above Medicare's payment.

But AARP, along with the New York-based Medicare Rights Center and some other consumer groups, strongly opposes the Kyl legislation. The American College of Physicians has raised serious questions about it.

"These proposed changes could open up Medicare to even more fraud and abuse than we see now," says AARP's Smith. "Medicare would have a very hard time identifying which services were paid for privately. Thus, doctors could double-bill and collect from both beneficiaries and Medicare."

Critics, AARP among them, also worry about the danger that private contracting could create a "two-tiered system"—one for better-off enrollees who could afford high-priced doctors and another for all other enrollees.

Finally, AARP and other critics worry about the ability of doctors to charge any price for services rendered and the Medicare enrollee being held responsible to pay 100 percent of the bill.

"When a beneficiary agrees to a private contract, he or she is liable for 100 percent of what the doctor chooses to charge for the service," Smith observes. "When beneficiaries discover that and recognize that their medigap policy won't cover the costs, they may find that the out-of-pocket costs will be unmanageable."

INTRODUCTION OF THE SAFE  
SCHOOLS INTERNET ACT

**HON. BOB FRANKS**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 11, 1998*

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise to introduce the Safe Schools Internet Act. Later this year, our schools and libraries will be receiving funds from the Congressionally created Universal Service Fund to defray costs of Internet access. While it is undeniably important for our children to have access to this important tool in their classrooms, the "hooking up" of America's schools also comes with problems.

As most people know, in addition to the priceless information available on the Internet, the Internet also contains a limitless supply of material not appropriate for children. When we hook our schools to the Internet, we are also hooking them up to this material. While we would never let our school libraries carry material such as Penthouse or depictions of violent torture, we may soon be doing so through the Internet.

However, technology currently available on the market makes it possible to block out many offensive Internet web sites. The Safe Schools Internet Act would require that any school system accepting federal money from the Universal Service Fund to facilitate Internet access install Internet blocking software. Under the bill, libraries would be held to the same requirement for at least one computer in the library. The method of blocking would be left to local school and library officials, ensuring continued local control of these important institutions. This Safe Schools Internet Act will ensure that children in our schools and libraries are not confronted with age-inappropriate material, and that the federal government does not find itself financing offensive material in our schools.

I hope my colleagues will join me and co-sponsor this important legislation.

COMMENDING JAMES CASALE

**HON. ROBERT A. WEYGAND**

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 11, 1998*

Mr. WEYGAND. Mr. Speaker, I rise today to commend James Casale, age 7, who has already proven himself to be an outstanding member of our society, James attends second grade at Gladstone Street School in Cranston, Rhode Island. When told that his school was having a canned food drive for the poor, James raided his family's pantry for items to contribute. After a few days, his parents told him the best way to contribute was to use his own money to buy food.

James used \$100 saved from allowances and tooth fairy money to buy 17 cases of food. On November 20th his father dropped James and his four hundred cans off at the schoolyard. Those four hundred cans inspired other students in his school to donate even more than they already had. In previous years, the Thanksgiving food drive had accumulated only a few hundred cans. Last year's food drive set a record at 1,600 cans. However, because of